

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

HAYDEE RIVERA Plaintiff Vs. DDR CAYEY LLC; JOHN DOE CORP. and ABC INSURANCE COMPANY Defendants	CIVIL NO. 21- PLAINTIFF DEMANDS TRIAL BY JURY
---	---

C O M P L A I N T

TO THE HONORABLE COURT:

NOW COMES plaintiff, Haydee Rivera, through the undersigned attorney, and very respectfully states, alleges and prays as follows:

I. JURISDICTION AND ALLEGATIONS

COMMON TO ALL CLAIMS

1. Jurisdiction exists pursuant to 28 U.S.C. § 1332, in that the plaintiff, Haydee Rivera, is a citizen of Puerto Rico; defendant DDR Cayey LLC, ("DDR") is a limited partnership company organized under the laws of the State of Ohio and with its principal place of business in Ohio; John Doe Corp. is an individual or entity incorporated and with a principal place of business in a state other than the Commonwealth of Puerto Rico; defendant ABC Insurance Company is an insurance company organized and existing by virtue of the laws of a state other than the Commonwealth of Puerto Rico, with its principal place of business in a state other than the Commonwealth of Puerto Rico; and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

2. Plaintiff Haydee Rivera, is of legal age and a resident of Cayey, PR.
3. Defendant DDR Cayey, LLC, (hereinafter "DDR") is the owner and/or operator of a shopping center known as Plaza Cayey.
4. Defendant John Doe Corp. is the unknown name of an individual or entity which may be liable to plaintiff as it owns and/or operates Plaza Cayey. Once his/its true name and identity is ascertained, the corresponding amendments to this complaint will be made.
5. Defendant ABC Insurance Co., is the unknown name of the insurance carrier that as of the date of the facts averred herein had issued and maintained in full force and effect a public liability policy on behalf of defendants DDR and/or John Doe Corp., which provides defense and coverage for the facts alleged herein. Once its true name and identity is ascertained, the corresponding amendment to this Complaint will be made.

II. FACTS

6. On May 8, 2020, at approximately 8:30 am, Ms. Rivera went shopping with her husband, Mr. Antonio Alamo to the Walmart store located in Plaza Cayey in Cayey, PR. Due to Covid protective measures, she was not allowed to enter the Walmart store so she proceeded to walk back to her car. As she proceeded to walk towards her vehicle, which was parked on the shopping center's parking lot, she tripped and fell on the street in front of Walmart.

7. Immediately after the fall, Plaintiff realized that she had stumbled with a steel safety bollard, located in the street, which protruded over the street level surface and was of the same color as the street's pavement, which made it difficult to discern as one walked

through the street.

8. As a result of the fall, Plaintiff began to feel strong pain throughout her body, particularly to her neck, lower back and chest. She had to be transported to the Emergency Room of Hospital Menonita in Cayey, PR, where she received emergency medical care, her chest and spine were x-rayed and she was initially diagnosed with multiple traumas.

9. Notwithstanding the amount of medical treatment received, Ms. Rivera remains with a partial permanent impairment, which limits her ability to perform her daily living activities.

III. LIABILITY

10. The injuries suffered by Ms. Rivera on May 8, 2021, were proximately caused by the defendants' negligence, who at the time of the occurrence of the facts alleged herein failed to maintain the premises in a reasonably safe condition for the use of its customers and visitors.

11. The injuries suffered by Ms. Rivera on May 8, 2021, were proximately caused by the defendants' negligence, who at the time of the occurrence of the facts created, maintained and tolerated a safety hazard within the premises of Plaza Cayey, detrimental to the well-being of visitors and patrons.

12. The injuries suffered by Ms. Rivera on May 8, 2021, were proximately caused by the defendants' negligence, who at the time of the occurrence of the facts created, maintained and tolerated steel safety bollard on the street that protrudes on the surface and is of the same color as the rest of the pavement, rather than painting it in a different color to

warn about its presence. As a result of these conditions, the steel safety bollard in question constituted a safety hazard detrimental to the well-being of visitors and patrons.

13. The injuries suffered by Ms. Rivera on May 8, 2021, were proximately caused by the defendants' negligence, who failed to warn or otherwise alert the visitors and customers about the dangerous conditions existing within the premises of Plaza Cayey.

14. Pursuant to the provisions of Articles 20.001 and 20.003 of the Insurance Code of Puerto Rico, 26 L.P.R.A. §§ 2001 and 2003, defendant ABC Insurance Company is directly liable to plaintiff for the damages suffered by their insureds' negligent acts and/or omissions.

IV. DAMAGES

15. As a result of the negligent acts and/or omissions of the Defendants, Ms. Rivera suffered damages throughout her body, but particularly to her cervical and lumbar spine and chest. As a result thereof, she has required extensive medical treatment and care.

16. As a result of the injuries caused by the negligent acts and/or omissions of the Defendants, plaintiff Ms. Rivera continues to suffer pain, significant physical limitations and a whole person impairment, which significantly impairs her activities of daily living.

17. As a result of the injuries caused by the negligent acts and/or omissions of the Defendants, Ms. Rivera has suffered, and will continue to suffer, severe physical pain and excruciating mental anguish, valued in the sum of \$500,000.00.

18. Defendants have been obstinate and according to the laws of Puerto Rico, they are not only liable for the payment of the principal claimed herein, but also for the

payment of interest accrued since the date of the filing of the complaint and for the payment of attorneys' fees.

V. JURY DEMAND

19. Plaintiff demands trial by jury on all issues so triable.

WHEREFORE, it is respectfully requested that this Honorable Court enter judgment against Defendants, ordering them to pay to plaintiff the sums prayed herein, as well as to pay a reasonable amount for attorneys' fees, interest and the costs of this action.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 10th day of May 2021.

I HEREBY CERTIFY that on this same day, I presented the foregoing to the Clerk of the Court for filing and uploading to the CM/ECF system.

s/Richard Schell-Asad

Richard Schell-Asad - USDC-PR No. 203207

s/José M. Carreras Pérez

José M. carreras Pérez - USDC-PR No. 212403

Attorneys for Plaintiff
Schell & Carreras
#171 Chardon Ave., Suite 301
San Juan, PR 00918
Tel: (787) 626-1124
e-mails: rschellasad@aol.com
jmcarreras2002@yahoo.com